

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF INDIANA
INDIANAPOLIS DIVISION

FLORIDA G. SHEPPARD,)	
)	
Petitioner,)	
)	
v.)	No. 1:20-cv-03319-JPH-MJD
)	
UNITED STATES OF AMERICA,)	
)	
Respondent.)	

ORDER DIRECTING PETITIONER TO SHOW CAUSE

Petitioner Florida Sheppard is an inmate of the Indiana Department of Correction confined at Plainfield Correctional Facility. He is serving sentences for convictions under Indiana Criminal Case Nos. 20D06-1006-FC-11 and 20D06-1109-FD-262. He has filed a petition entitled "Writ of Compassionate Release or Reduction of Sentence," seeking compassionate release under provisions of the federal First Step Act, codified as 18 U.S.C. § 3582(c)(1)(i).

The First Step Act permits a *federal* prisoner to seek a reduction of his sentence upon a showing that "extraordinary and compelling reasons warrant such a reduction." 18 U.S.C. § 3582(c)(1)(i). The Court has no authority to order the State of Indiana to reduce Mr. Sheppard's sentence under the terms of the First Step Act.

If Mr. Sheppard seeks to challenge his current confinement on constitutional grounds, he must first exhaust state court remedies. "To protect the primary role of state courts in remedying alleged constitutional errors in state criminal proceedings, federal courts will not review a habeas petition unless the prisoner has fairly presented his claims throughout at least one complete round of state-court review, whether on direct appeal of his conviction or in post-conviction proceedings." *Johnson v. Foster*, 786 F.3d 501, 504 (7th Cir. 2015) (citation and quotation marks omitted); see 28 U.S.C. § 2254(b)(1)(A).

As for his claim for release due to the COVID-19 pandemic, he has failed to show that he exhausted state court remedies before bringing his petition. Therefore, this claim is also barred. *See* 28 U.S.C. § 2254(d)(2); *Money v. Pritzker*, 453 F.Supp.3d at 1103, 1316 (N.D. Ill. Apr. 10, 2020) (denying habeas relief based on COVID-19 conditions and finding that "Plaintiffs have not made a satisfactory showing that the state court system was not every bit as available as the federal courts, if not more so.").

It appears that Mr. Sheppard has not presented his claim for release through one complete round of state-court review in the Indiana state courts before filing his habeas petition. Mr. Sheppard shall have through **February 12, 2021**, to show cause why this habeas petition should not be dismissed without prejudice because the petitioner failed to exhaust his state court remedies.

SO ORDERED.

Date: 1/22/2021



James Patrick Hanlon
United States District Judge
Southern District of Indiana

Distribution:

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